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JUN 16 2005
PATENT & TRADEMARK OFFICE

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/782,856 Confirmation No.: 5475

In re Application of Group Art Unit: 1661

Mark Roland BOEDER

Examiner: Anne Marie Grünberg

Filed: February 23, 2004

For: CHRYSANTHEMUM PLANT NAMED 'SIZZLENESS'

REPLY TO REQUIREMENT FOR INFORMATION UNDER 37 CFR 1.105

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant replies to the requirement for information under 37 CFR 1.105 mailed April 21, 2005 as follows.

An error occurred in the transmission of the CPVO data to the UPOV CD. The November 21, 2001 date does not correspond to the denomination proposal date but rather refers to the application date made under a breeders reference number. The Examiner should note that the document indicates the denomination was accepted December 8, 2003, more than two years after the denomination was said to be proposed. That long time period immediately makes the denomination date suspect. The Examiner is informed that the CPVO

was asked to make the necessary correction and inform her accordingly. Enclosed is a copy of a letter dated May 17 2005 from the CPVO to the Examiner stating that the denomination was proposed April 3, 2003, published June 15, 2003, and granted rights thereunder on December 8, 2003.

Enclosed herewith are copies of the 2003 catalog of the assignee in which Sizzle (but not SIZZLENESS) was first promoted. The catalog was first distributed in November 2002. Flowering stems of Sizzle are sold through the Dutch auctions and the regular promotion and sale of Sizzle in the Netherlands took place at the end of 2002.

Applicant submits that it is not possible to have access to the claimed plant based on PBR documents prior to the publication of the acceptance of the proposed denomination on December 8, 2003, less than a year before the filing date of the instant application on February 23, 2004. Accordingly, there are no patent barring events.

With respect to successful reproduction of the plant, applicant submits that reproduction is possible only after access to information regarding the parentage of the plant, information

that becomes available no earlier than December 8, 2003, less than a year before the filing date of the instant application.

Favorable treatment of the application is earnestly solicited.

Respectfully submitted,

STEPTOE & JOHNSON LLP

June 16, 2005
Date

Charles A. Wendel
Registration No. 24,453

CAW/ch
Enclosure:
Pages from 2003 CBA catalog
May 15, 2005 letter
Attorney Docket No. 28967.0180

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European Union

Community Plant Variety Office

Mrs. Anne-Marie Grunberg

COPY

United States Dept. of Commerce
Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria
Virginia 22313-1450
USA

Our ref: rc/jm/50033b

Subject: **Observation to a submitted variety denomination**

Denomination	**Sizzleness**
Species	*Chrysanthemum*
Applicant (name and address)	Chrysanthemum Breeders Association (the Netherlands)
Bulletin	Denomination proposed on 21 November 2001 according to the UPOV CD ROM no. 1/2005.
Observation	Please be informed that the information contained in the UPOV CD ROM is incorrect. This denomination was **proposed on 3 April 2003, published on 15 June 2003** and the variety was **granted European plant variety rights** under this denomination **on 8 December 2003 (EU 12.202)**

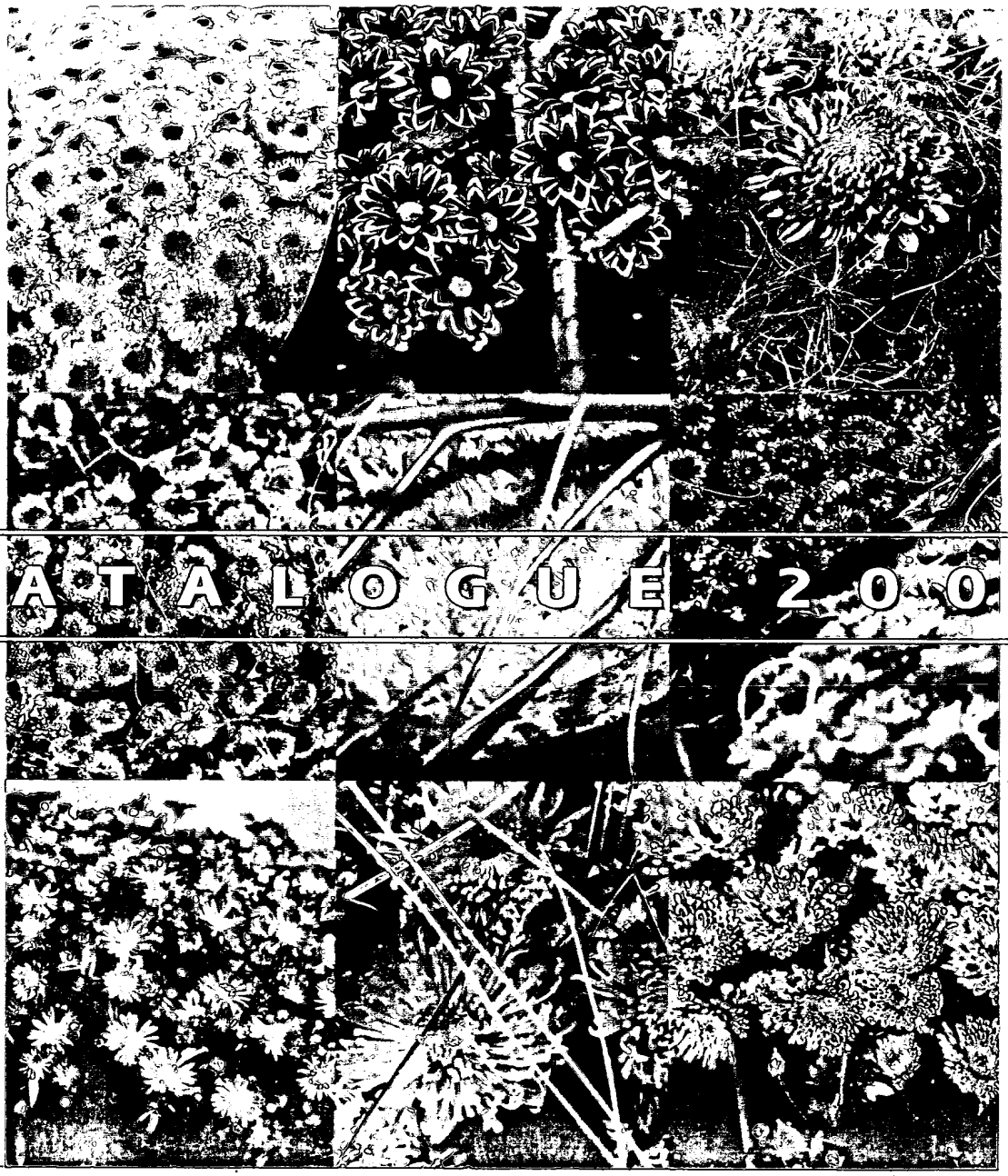
ONTVANGEN 19 MEI 2005

Date **17/05/05**

Signature

Rudi Caes

Community Plant Variety Office - P.O. Box 2141 - F- 49021 Angers Cedex 02 - France
Telephone : +33-2-41 25 64 00 - Telefax : +33-2-41 25 64 10 - Direct line Rudi Caes : +33-2- 41 25 64 36
Email : caes@cpvo.eu.int - Internet http://www.cpvo.eu.int



CATALOGUE 2003

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eagan Elite White



Reagan Elite Improved



Reagan Elite Splendid



Reagan Splendid Dark



Reagan Lemon



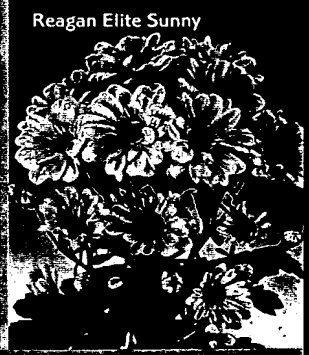
Reagan Elite Cream

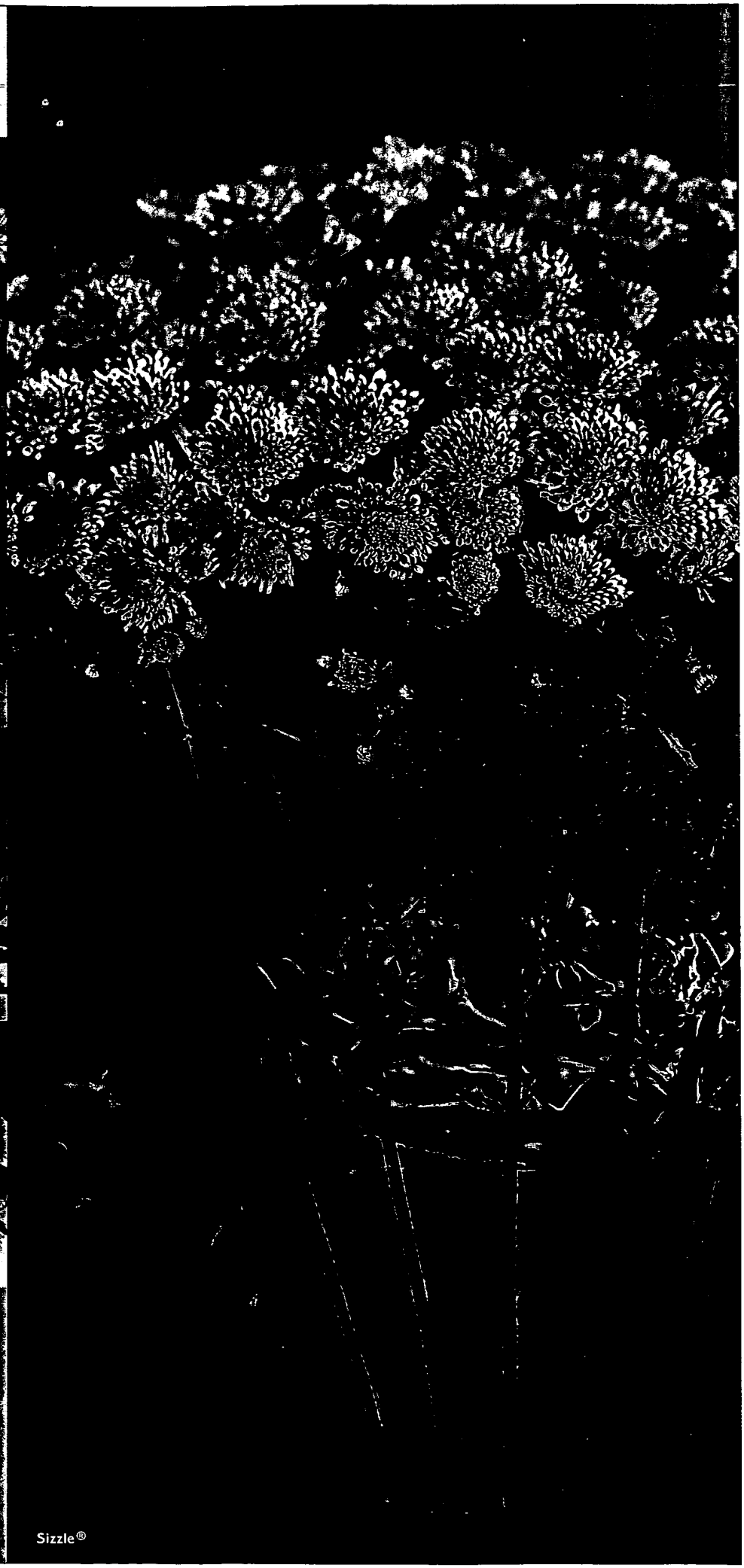


Reagan Elite Yellow



Reagan Elite Sunny

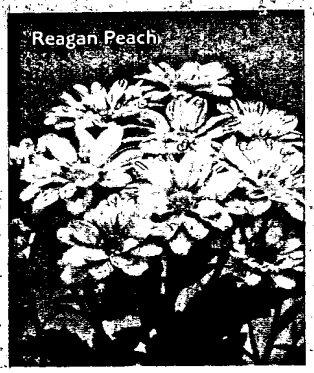


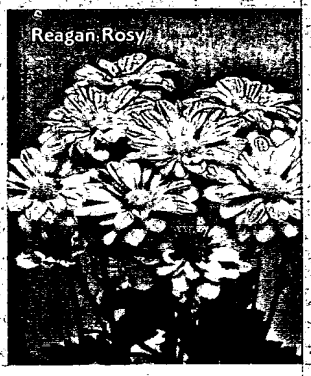


Sizzle®

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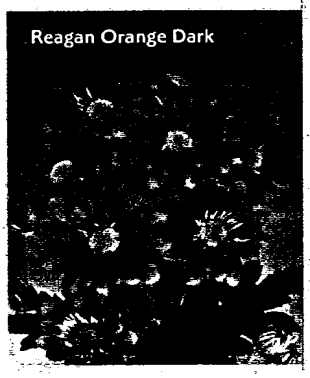


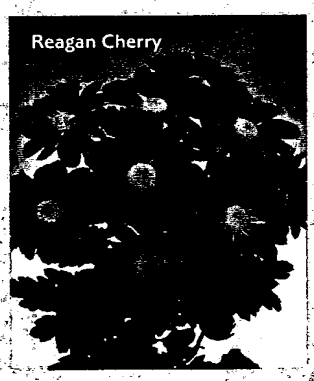








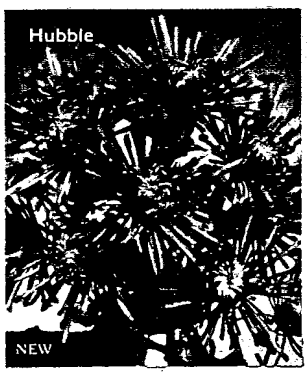


















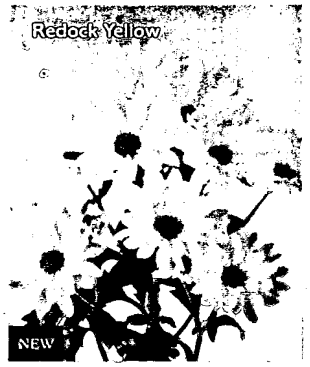


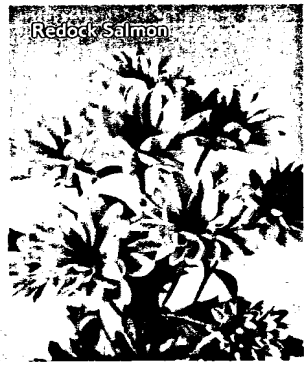


Spray Chrysanthemum











		Name	Response	Colour petals	Specification (CT=cold-tolerant)		Colour centre	Plant week
Spray Chrysanthemum Pink • Purple • Salmon • Apricot • Cherry								
Daisy		**Reagan Mundo Pink**	**7.5**	**pink**		**CT**	**green**	**01-52**
		Reagan Mundo Dark	7.5	pink	dark	CT	green	01-52
		Reagan Peach	**7.5**	**apricot**	**dark**		**green**	**01-52**
		Reagan Pearl	7.5	pink	pale		green	01-52
		Reagan Rosy	**7.5**	**pink**	**light**		**green**	**01-52**
		Reagan Rosy Dark	7.5	pink	dark		green	01-52
		Reagan Salmon	**7.5**	**salmon**			**green**	**01-52**
		Reagan Splendid	7.5	purple	light		green	01-52
		Reagan Splendid Dark	**7.5**	**purple**	**dark**		**green**	**01-52**
Spoon	NEW	Hubble	7	pink	dark		green	01-35
		Remado	**7**	**pink**			**green**	**01-35**
		Recharles	7.5	pink / white			green	01-35
	NEW	**Sizzle®**	**7.5**	**pink / cream**			**green**	**01-35**
Orange • Red • Bronze								
Daisy		**Redock Orange**	**6.5**	**orange**			**green**	**01-52**
		Redock Scarlet	6.5	orange	dark		green	01-52
	NEW	**Panther®**	**7**	**orange**			**green**	**46-38**
		Reagan Elite Orange	7	orange			green	01-52
		Rebasco	**7**	**red**			**green**	**01-52**
		Reagan Bronze	7.5	bronze			green	01-52
		Reagan Mundo Orange	**7.5**	**orange**		**CT**	**green**	**01-52**
		Reagan Orange	7.5	orange			green	01-52
		Reagan Orange Dark	**7.5**	**orange**	**dark**		**green**	**01-52**
		Reagan Red	7.5	red			green	01-52
		Reagan Red Ruby	**7.5**	**red**	**dark**		**green**	**01-52**
		Reagan Scarlet	7.5	red	light		green	01-52
		Relance	**7.5**	**red**			**green / yellow**	**02-34**
		Vyking Orange	8	orange			brown	01-36
Spoon		**Reballet**	**7**	**orange**	**light**		**green / yellow**	**01-52**
		Repulse	8	red / yellow			green	05-32
Green								
Spider		Revert	8	green			green	50-36
Bicolour								
Daisy	NEW	Two Tone	7	purple / white			green	04-32
		Remix	**7.5**	**purple / white**			**green**	**50-38**
		Remix Golden	7.5	red / yellow			green	46-38
		Remix Red	**7.5**	**red / yellow**			**green**	**46-38**
		Remix Yellow	7.5	yellow / red			green	50-38
		Flairisse	**7.5**	**yellow / red**			**green**	**04-36**

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